

Criminal Appeal No. 1268 of 2001

Hon'ble P.C. Verma, J.

This petition under Article 226 of the Constitution of India is converted into criminal appeal under Sec. 449 of the Criminal Procedure Code.

Let it be registered as such.

Heard learned counsel for the appellant and Sri Amit Bhatt, learned A.G.A.

The grievance of the appellant is that he was surety for the accused Harjinder Singh in case crime No. 124 of 1997. Harjinder Singh was released on bail under Sec.307 of the I.P.C. and the appellant was surety for him. The learned counsel for the appellant made statement at bar that the accused has surrendered and is in jail. Therefore, the steps taken against the petitioner under Sec. 82/83 of the Cr.P.C. is not tenable in view of the surrender of the accused. Therefore, the order passed under Sec.82/83 Cr.P.C. against the appellant is bad in law and is liable to be set aside.

The learned A.G.A. has fairly submitted that in case the accused has surrendered, then the order cannot be allowed to stand. In view of this submission, the appeal is allowed. The order dated 06-7-2001 passed by Addl. Sessions Judge, Haldwani, District-Nainital in Sessions Trial No. 124 of 1997 is hereby set aside. Let the property of the appellant be released.

(P.C. Verma, J.)

27-7-2001

P.Singh.